*613 554 69 [671] [178] on paper in triplicate, one copy going to each litigant and a third copy to the chief of police of the Marsa Matruh sector. In practice, though, a copy usually goes to the litigants, but not to the chief of police (who had not a single Bedouin court case in his files).

*613 695 692 [671] As is not the case in Islamic law, in Bedouin customary law the decision of the judge may be appealed. The system of appeals may even function at the level of familial authority, i.e., the son may, in theory, appeal a ruling by his own father. The Bedouins insist that this is an important right of every man. In the situation where a man wishes to appeal a decision of his own 'aqila, he will generally take his claim to another 'aqila of his secondary group. When an appeal is to be made, it is done with the permission of the 'aqila who rendered the original decision. The one who appeals his case does so with the understanding that the decision returned by the court of appeal will be final and binding. Further, if [681] the court of appeal concurs with the findings of the original court, the plaintiff pays a double fine (twice the original fine), and also pays his own 'aqila an expiation fee (kubaara).

69 648 [682] [685] The Egyptians have preferred to leave the Bedouins of al-Qasr to settle their own disputes except in the more serious criminal matters. Police from Matruh will enter homicide cases and those conflicts over property rights which threaten to explode into tribal warfare. But these types of conflict have

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648 been infrequent in al-Qasr. The 'awaaqil of al-Qasr and the police of al-Qasr have an agreement that Bedouin problems are the jurisdiction of the desert leaders, and that the police will intervene only when their help is requested. The Bedouins claim that in the 1930's, the Egyptians tried to do away with Bedouin law but soon discovered their own penal code to be inoperative in the desert. Against "outsiders," the
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69 Bedouin is duty bound to protect his kinsmen, and hence justice could not be satisfied. One 'aqila said that "only the 'awaiyid
*613 Awlad 'Ali can maintain order because it stops wars through
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182 payment of blood-money." If a Bedouin, for some reason or other, takes his case to the police in Matruh, he will be
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648 returned to his 'aqila; he will be told that they can do
*613 nothing for him without the permission of his 'aqila. There are exceptions to this rule which complicate modern Bedouin
692 judicial procedure. For instance, in cases which involve
•685 government property, such as olive trees and government-
648 operated water systems, a man may legitimately deal with the
*613 police. In one case in al-Qasr, a man's goats destroyed a number of his neighbor's olive trees. The police decided that the owner of the goats should pay the value of the trees. In another case, a man who had constructed small earth dikes in such a way that rain water was prevented from flowing onto his neighbor's land was forced against his will to remove the obstruction. His neighbor had taken his complaint to the

692 police and not to his 'aqila. This was a serious case because
•685 the police were forced to imprison the dike-builder for two
648 days before he would agree to their demands. The two men in-
*613 volved in the conflict were from different lineages, and it soon became necessary for Bedouin justice to intervene even after the matter had been settled by the police. The 'awaaqil of each man met, along with other notables of the tribe, and investigated the area where the dikes had been; they listened to witnesses and tried to calculate the amount of water which each man should receive. In the end, the decision of the police was upheld.

692 Although, ideally, litigation should be instigated
691 through the office of the 'aqila, alternatives do exist. As
*613 noted in discussing the values of Bedouin society, it is the
[577] moral obligation of each and every person to moderate between conflicting parties; any one conflict situation may be moderated by many well-meaning parties. Or, if a person suspects prejudice on the part of his own 'aqila, he may choose to take
627 his claim to another 'aqila, or third party. The notion of a
554 third party to a conflict, when it does not refer to the 'aqila
692 or a close kinsman who may act as an arbitrator, has reference to a non-institutionalized role in al-Qasr. This role-holder, the Bedouins call rajal khair ("good man") or qawaal al-khair ("the speaker of the good").

"Role differentiation implies organization" (Levy

*613 554 591 171 596 al-Qasr there is definite role differentiation between the shaib and the 'aqila. The incumbents of the two roles may have exactly the same genealogical position in the tertiary segment, but they will never have the same social status. There are as many elders as there are households, but there is only one 'aqila for each group. Another difference between the Bedouins and the Lugbara is that in the latter society a kinship role which doubles as an authority role does not occur above the familial (i.e. shaib) level.

*613 554 596 The difference between the shaib and the 'aqila is the distinguishing factor between informal and formal social control. The shaib acts in accordance with the values implied by Bedouin authority structure: the action of the 'aqila is legitimate in the explicit terms of the Bedouin authority structure. These two spheres of political action represent familial and internal (or domestic) levels of authority and authority relations. Legal matters which affect the whole tertiary segment are dealt with at the internal level.

629 596 685 Affairs of a purely personal nature and of lesser importance are dealt with at the familial level of authority. For instance, it happened that the dog of one man killed a neighbor's chicken. No one sent for the 'aqila. They sent for the shaib of the woman who owned the chicken, i.e., they sent for her husband. He spoke to the woman, his wife, to determine the value of the chicken and this price he demanded as compensation

627 from the owner of the dog. If the man had refused to pay the
596 price of the chicken, as demanded for settlement, then the
•685 next step would have been to inform the appropriate 'aqila
*[613] to bring greater force, and perhaps greater sanctions, to bear.

*613 Bait 'Umar (Figure 8) is one of the authority groups
571 of al-Qasr, a corporate group represented by a corporate sole.
682 Both the tertiary corporate group and the corporate sole are referred to, according to the ancient tradition of the Bedouins, as an 'aqila. This group is a blood-revenge group, and is referred to as 'umraa al-dam ("donator of blood"), or waliiy al-dam ("executor of a blood feud"). It is the group which
[681] decides whether or not retaliation will be taken according to lex talionis, or if blood-money as compensation for the loss of one of its members is acceptable. The Bedouins say that no amount of money can replace a human life, that blood-money is only a means to prevent the loss of more men. This group, when it functions as waliiy al-dam ("executor of a blood feud"), has the authority to demand retaliation; to waive it entirely; or to demand, along with blood-money, that the guilty party be punished by his 'aqila. When this group pays or receives blood-money it does so as a partner in the larger corporate group, the secondary segment. The principle of collective responsibility interplays with the other structural principles of Bedouin society. The convergence represents

671 They said that if a man
562 insisted on keeping a promiscuous wife, his family would
684 "write a barawwa aginst him." I heard of no sex offenses in
681 al-Qasr while I was there.
[114]

671 The penalty for stealing, according to the 'awaiyid,
•685 is that the thief shall pay compensation, by himself, in the amount of four times the value of the stolen object. On the
*[613] other hand, if the thief is a poor man, he will pay thrice the value of the stolen object and the remaining fourth will be paid by his lineage.

671 The 'awaiyid recognizes the territorial claims of the
685 lineage. Disputes arising over conflicting claims to land
*613 and wells are handled at Bedouin courts in much the same way
578 as personal injury cases are, with one exception. Usually, a
[554] larger number of elders and rajal khair will be consulted in an advisory capacity by the 'awaaqil handling the case. The 'awaaqil consider the specific history of a particular piece of land or well (for instance, each well is known by its own name), and determine the ownership in accordance with the testimony of elders and individuals of high social status. Most of the problems over land and water rights in al-Qasr have reference to what is still considered lineage-owned
685 territory in the barley-and-pasture sector. In the 'izba
578 sector, conflict over land ownership rights, since they are
648 rights which are registered with the government, is settled in the Egyptian court of law. Only one such case came up while

*685 I was in al-Qasr, and each party to the conflict hired
578 Egyptian lawyers in Marsa Matruh to represent them. As one
648 litigant in this case told me: "The Bedouins prefer to settle their own land disputes because the government's way of handling these things costs money and long periods of waiting."

69 The notion of jurisprudence in tribal cultures, in
121 general, seems to be one which concentrates on the restoration
578 of a disturbed balance rather than one concerned with formality and procedure. To a great extent, this is true in the Bedouin case also. However, the absence of institutionalized ways of dealing with conflict is more characteristic of the internal
*613 system of political relations. Conflict within the secondary
578 segment, we have noticed, may be regulated at the familial
[593 level of authority by the shaib, or one acting in his place:
596] it is hoped by the Bedouins that quarrels never become serious enough to prompt intervention by the 'aqila. On the other hand, the 'aqila, as a legitimate representative of his authority group, will almost always become involved in conflict regulation falling within the sphere of external political relations, i.e., conflict between secondary, primary, or tribal segments.

The 'aqila as the most effective mechanism of social
*613 control has become institutionalized through time in Bedouin
578 society. At the interactional level of secondary lineage
182 group relations, conflict may easily expand into feuding or,

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that they had received their rights in this case. And the two parties are satisfied by this according to the witnesses present.

Signatures or seals of four witnesses.

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The next case represents the only time in the memory of informants that all of the 'awaaqil of the 'Ali Ahmar met to intervene in a case of conflict. This case is extremely unusual because it may be the only time in Awlad 'Ali history that political mobilization of this scale has taken place. As noted, political action, in war or peace, usually involves only secondary segments. In view of this, the case probably reflects an instance of social change: the Egyptian government, anxious to maintain good relations with Libya, encouraged and facilitated the settlement of this dispute by furnishing transportation and cutting administrative red tape so that the 'awaaqil of the 'Ali Ahmar could handle this case in a most expeditious way. Here is a case where Bedouin traditional political structures function adequately in the modern situation. Note here also that, in certain circumstances, the diiya payment can be divided symbolically and specifically to place guilt and to indicate the seriousness of a crime.

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Date: 1963. Case: Quarrel between the tribe of 'Ali Ahmar (Egypt) and the Harabi (Libya) concerning murder. A young boy of 'Ailit X was visiting his sister in Libya. He learned

619 that one old man kept a large sum of money at home. One day
*613 the boy went to beg a watermelon from the old man, but really
682 he went to learn the layout of the man's house. In the night,
578 the boy returned to the man's house and demanded his money.
[685] The man refused saying that he had no money. The boy stabbed the old man to death. The boy then went to his sister's house and washed the blood from his hands, and had the girl clean the blood from his robe. The police came to the sister's house in search of the boy, but he was hiding in a cave nearby. The police asked the sister: "Where is your brother, he has killed your mother?" The girl was horrified and told the police where they could find her brother.

*613 All of the 'awaagil of the 'Ali Ahmar met at the farm of
619 'Unda Ibrahim. There were forty-one 'awaagil plus 'Unda Ibra-
571 him. They proceeded to Libya by bus, and took forty sheep
682 with them as a kubaara. In Libya, they met with officials of
578 the Libyan government and the 'awaagil of the Harabi tribe.
682 The Harabi asked for a diiya of 3000 L.E. The blood-money
578 asked for was extra high for two reasons: a young man had
619 killed an elder; and, the murder was connected with in-
*613 tentional theft. After discussing the crime, the Harabi
[685] reduced the price to 700 L.E. They did this out of respect for the 'Ali Ahmar who had come so far, and who had paid money for the sugar and tea. All of the 'Ali Ahmar contributed to

423 long time ago. This seems to be supported by the evidence
*613 shown below, for often conflict over land and water rights is
182 represented by litigation between individuals and not groups.
[691]

I have arbitrarily assigned to the classification of
422 property rights the rights over women. I have done this
562 because a man acquires such rights as a member of a lineage
*613 jural group and secures them with the backing of public opinion and the 'awaiyid. Also, though a man in al-Qasr does not "own" his wife, he does have the legal rights to certain things related to her: he has the right to her sexual favors, and the right to claim her offspring for his own lineage.

Settlement in cases dealing with the infringement of
•685 property rights, if they do not lead to personal injury cases,
695 will usually be concluded by arbitration or oath-taking, either of which brings the two parties into agreement.

691 Date: 1964. Case: Quarrel between Bait 'Umran and Bait Idris
685 of 'Ailit Ma'fas over the ownership of a well. The 'awaaqil
*613 sent for the two parties involved, and they met on Wednesday,
578 market day. And the 'awaaqil told the two parties: "This is
692 a shame ('aib), you must be friends because you are from the same tribe." The 'awaaqil knew "from past history and from truthful elders" that the well belonged to 'Ait Idris. The 'awaaqil made 'Ait 'Umran change their minds about their claim
[695] to the well. Before the litigation 'Ait 'Umran had insisted

691 that 'Ait Idris take the oath as proof that the well was
●685 owned by them. Upon the decision of the 'awaaqil, however,
*613 'Ait 'Umran refused to allow 'Ait Idris to swear the oath
578 "because we are all one family." This means, as one 'aqila
692 actually stated at the conclusion of the case, that " 'Ait
695 Idris is indebted to 'Ait 'Umran."

423 The following two cases which occur in the external
675 system of political relations, one within the 'Aishaibat
*613 territory and the other dealing with land rights in the territory between two primary authority groups, indicate the formal aspect of Bedouin adjudication in establishing contracts.

[539] Date: 12 August 1963. A Contract of Agreement on Land Rights.
Agreement and satisfaction took place between Hussain Karim al-Dawlat of al-'Aishaibat and Khalid Idris al-Ma'fas of al-'Aishaibat, the first and second party. And the reason for this agreement is that each of the two parties own cultivable land at Ras Wadi Madwar. The two parties wish to make a dividing line between this linear piece of land and to declare the borders. The two parties agreed on the following: first, the beginning of the border extends from the eastern side at south Ras Raqabit al-Shumar to the western side at Hatiyid and is shown by stone markers; secondly, this line should be established from the east to the west, and this is a dividing line between the two parties and was executed by them and with their satisfaction; thirdly, whoever rejects or modifies this line will be responsible in front of law and the 'awaiyid Awlad 'Ali; each party is responsible for his children and relatives as to their actions regarding this line which is the subject of the agreement; fifthly, this contract of agreement which defines the borders between the two parties was issued in two copies, a copy to each party to use when it is needed.

Signatures or seals of seven men.

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Date: 12 October 1954. There came to us (i.e. the 'awaqil) on this day, Khalid Idris of al-'Aishaibat and Yunis Abd al-Nabi of al-Kamailat. The reason for their coming is a quarrel over land rights at Wadi al-Hijnaiya. And we put distinct markers between the land of the two parties, the first, Khalid Idris, and the second, Yunis Abd al-Nabi. And the boundary passes by the distinct markers; the first is the wadi marker, the second to the sea and beside the tree, and the final marker we put east of Halima well. This is a decision between the two parties in the presence of the following witnesses:

Signatures or seals of five men.

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The case given below indicates, by the use of two documents, the process of conflict settlement involving two secondary segments of al-Qasr, one Sa'adi and one Marabit. 'Ailit al-Sulwatiyya, though genealogically not members of the Awlad 'Ali and holders of a client or vassal status in traditional times, are within the jurisdiction of the 'awaiyid Awlad 'Ali. They claim their rights under it by virtue of the fact of their residence in al-Qasr. The power of ritual sanction is clearly illustrated by this case.

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Date: 30 July 1964, Marsa Matruh. First Party: Shaikh Khalid Za'aluk al-Sulwatiyya and four relatives. Second Party: Khalid Idris of 'Ailit Ma'fas and three relatives. They are present. The cause of these two parties coming together is a quarrel over a well named Halima. Since the choice to swear the oath has been made by the two parties, Khalid Idris, the second party, will swear the oath supported by twenty-four members of his 'umraa al-dam ("blood group") to

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be chosen by Shaikh Khalid Za'aluk, the first party. The text of the oath which Khalid Idris will swear is: "By the truth of the owner of this tomb (maqaam), and this book of God, I swear that you (i.e. the 'Ailit Sulwatiyya represented by Shaikh Khalid Za'aluk) have neither work of hand nor a grandfather's stake in this well." If any of the oath-takers are missing on the day of the oath, the well will be owned Khalid Za'aluk. And if they swear the oath, the well will be owned by 'Ailit Ma'fas.

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The date of the oath will be the first Friday of month nine, 1964. The oath will be taken at the shrine of Sidi 'Awam, and the swearing will deal with the well only. For the land which is west of the well belongs to Khalid Za'aluk and his family, and the land to the east of the well belongs to Khalid Idris and his family. And the water which is west of the well belongs to Khalid Za'aluk. The two parties agreed to this. (Each party, and five witnesses, i.e. rajal khair, for each party, signed the document.)

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Date: 30 July 1964. I, Khalid Za'aluk, have decided to cancel the oath which was supposed to have been sworn on 9 September 1964 at the shrine of Sidi Awam. Khalid Idris and the oath-takers were present and were stopped from taking the oath. And the well named al-Halima which was the cause of the quarrel

423 each tribe. It was decided that the water which flows through
691 the wadi after the rains should be divided equally between the
578 two tribes, and that no one should be stopped from using the
619 water. Had not the government intervened in this conflict,
648 and had not they collected all of the weapons from the Bedouins, this problem would have resulted in the death of many men and even greater problems.

674 Theft is condemned by the Bedouins: "Everything in
• 685 the desert is loose. We must punish the thief quickly and severely." It is a fact that the man who goes to steal and [682] accidentally kills in the act will have judged against him [829] the full diiya, i.e., the amount for intentional killing. On the other hand, the people of al-Qasr insist that "Bedouins do [671] not steal." But legal norms exist to sanction violations against cultural ideals. The following case shows how social and ritual sanctions operate to enforce ideals.

619 Date: 1964. Case: Quarrel between the tribe of Kamailat and
578 the tribe of 'Aishaibat over the theft of 16 L.E. Muhammad of
685 'Ailit Ma'fas was accused of stealing 16 L.E. which belonged
*613 to Ahmad of 'Ailit Idris, Kamailat. The theft occurred while the two were residing at a hotel in Marsa Matruh. There were twenty other persons in the hotel that night. The accused said: "I did not take anything."

said: "I did not take anything." The 'awaaqil of both parties met and told the accused: "If you have anything give it to us; if you do not have anything then swear the oath to this fact." Members of 'Ailit Ma'fas said that the boy was innocent and told the 'awaaqil that the boy should have his rights according to the 'awaiyid (i.e. he should be allowed to swear the oath to establish his innocence). The boy accused of the theft, his father, and two other members of 'Ailit Ma'fas selected by the accusers swore the oath and the problem was over. Two months later, the accuser from the Kamailat lost his eye in an accident, because swearing the oath has consequences for both parties. A bad oath will work against the one who makes it; there will be a curse upon him, his children, and his money. And the bad effects of an oath will also work against the one who falsely accuses another making him swear the oath.

The final two cases deal with marriage rights. The first illustrates a number of things which I have touched on in the previous discussion of marriage: that a man may choose to ignore the jural structures of the lineage group where the desires of his offspring are concerned; that the female is not the totally subjugated person which one might expect to find in the strongly patrilineal Bedouin society; and that the role of "holy man" functions in the marital area of authority relations.

613 it was impossible to verify the actual facts or to know what exactly
682 happened. But since the parties involved are still alive and since these
683 events are closely related to present-day happenings, the case is still
672 alive in the minds of the parties involved as well as those of outsiders-
558 Naturlaly, each party tries to present the facts in such a way as to
(124) support his own claims. Shei'eb, for example, insists that Hakim had
613 bribed members of bait Asabei' to refuse to pay their share in order to
682 embarrass him and make him appear as unable to perform his duties as
683 Aqila. "Hakim always had his eyes on becoming the Aqila of bait Asabei'," said Shei'eb, "but he had no business becoming the Aqila, so he had to make me look bad to the other Awaqil.... He likes to be looked up to as a big man, but it wouldn't work." While other members of bait Asabei' deny that Hakim had bribed them, they agree with Shei'eb that Hakim is a dishonest man. In fact, Hakim's reputation is so widespread in the area
156 that it has earned him the nickname of "the thief". The nickname was
551 given to him a few years ago when he went to Mecca for a pilgrimage with
788 another fellow tribesman. The latter told the story that while in Mecca
685 Hakim had found a purse with two hundred pounds in it. He was supposed to return the purse to the authorities or it would be considered as stealing if he kept it. Stealing in Mecca is not only a crime but also a great sin which makes the holy trip void for the offender. Hakim told his companion that he had given the purse to the authorities. But later, on their way back from Mecca, the friend found the purse hidden in Hakim's luggage. When the story was known in the area, he was referred to as
156 "the thief". Other accounts of Hakim's dishonesty are told throughout
685 the area, including stories of how he acquired his wealth through stealing
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156 [685] [439] equipment from the government projects and from smuggling sheep and merchandise across the Libyan border. Although some of these stories might be exaggerated, they all point to the fact that Hakim, despite his wealth, is not the most popular or reputable individual in bait Asabei', and that although Shei'eb is not a popular individual either, he definitely comes up the winner in any popularity contest between the two. The question is 156 why Hakim was selected by the Awaqil to replace Shei'eb. The case in- 613 volved more than Shei'eb's inability to collect the money [redacted] members of 558 his bait. Shei'eb's ineffectiveness seemed to have been taken as an ex- 682 cuse rather than as the direct cause. Many Aqaqil, before Shei'eb, had 683 failed in collecting money from their own bait without being subject to direct challenge. What seems to be involved is more than a challenge to a particular member, Shei'eb. It is a challenge to the whole principle by which Shei'eb acquired his position as Aqila of bait Asabei': patrilineal succession.

156 Shei'eb is the youngest of four sons of the former Aqila of bait 159 Asabei', Sheikh Elewa. For more than fifty years Sheikh Elewa was the 613 undisputed Aqila of bait Asabei'. He also had considerable influence 463 among other tribal segments throughout the whole of the Western Desert 683 by virtue of his position as "nazzar", that is, the expert who assesses 554 the amount of compensation for wound inflicted in a liable case. The [428] position of nazzar is a hereditary one and had been handed down from [779] father to son. The basis for his assessment of wounds are a number of old books believed to be obtained from Mecca and contain all the judgments of famous Islamic leaders in their assessments of wounds.

[428] Eleven years ago when Sheikh Elewa became blind and too old to

439 Aggary Eila. When they arrived with the cigarettes, Hadi was not at his tent; he was in the market of the nearby town selling sheep. They left the cigarettes and left for Alexandria to arrange for their distribution. In Alexandria they met Rabbuh Hakim, the son of Hakim, who married a girl from Alexandria and lived there. He made his income from buying smuggled goods at wholesale prices and selling them at a profit. When he met the two members of the Geneishat tribe and learned from them about the shipment they left at Hadi's place, he wanted to buy it. But they refused on the grounds that Hadi had already contacted someone and that all they could do was to give the first option to that individual. Two 439 hours after the conversation between Rabbuh Hakim and the Geneishat, the 625 police officer on duty at the station of Burg el-Arab received an anonymous call from Alexandria informing him that a shipment of smuggled cigarettes worth more than three thousand pounds was hidden in Hadi's olive mill (which was not in use at that time). The call was overheard by a member of the Sanagrah tribe who works as a detective with the police. He tried to warn Hadi of the police raid but it was too late. The officer found the cigarettes in Hadi's olive mill in the exact place where the informant said they would be. The cigarettes were confiscated and Hadi was arrested and later released when the officer didn't find enough evidence to prove that he knew about the shipment or that it belonged to him.

685 The confiscation of the cigarettes enraged both Hadi and his part- 627 ners. They went to Sheikh Ta'ib, the Aqila of bait Eweidha to which Hadi 578 belonged. They told him about their conversation with Rabbu in Alexandria and said that they thought he was the one who informed the police about the shipment. Ta'ib said that Rabbu must have done this because of old

685 627 798 695 [671] [776] The Geneishat selected the tomb of the saint where the oath was to be administered. According to the customary law of Awlad Ali, the plaintiff is the one to decide which saint is to be sought for the taking of the oath by the defendant. Each saint has his own reputation and some are said to be more effective in certain kinds of disputes. The saint selected in this case was Sidi Dmain. Sidi Dmian's tomb is in the Beheira province some 60 miles east of the area of Burg el-Arab. He is [732] [784] known to cause the blindness of those who dare to swear falsely by him, and at least four cases of blindness in the area have been attributed to [671] false oaths at Sidi Dmain. Also according to the law, it is the plaintiff who selects the persons from the defendant's kin unit who are to 685 627 695 613 support him in the oath. Following this rule, the Geneishat, with the help of Hadi, selected the fourteen men from bait Asabei to swear with Rabbu. The number of men that were required in this case was considered very conservative. The usual practice in estimating the number of sup- [803] porters in any case is done by establishing the value of the damage or compensation and dividing it by ten. The result is the number of men needed to give the oath. If there were not enough adult males in a given kinship unit to fulfill the number needed, some or all the men would have to be sworn twice or three times and each time a person takes the oath he is considered as a separate person until the number needed is met.

Following this rule, and since the value of the property confiscated in the above case was over three thousand pounds, 300 persons should have been sworn in support of Rabbuh. Since this would have complicated the matter greatly, it was agreed that fifteen men were enough. Taieb gave the justification for limiting the number to 15 that trade and, as

685 627 695 613 such, deviates from the normal pattern of cases dealt with by the customary law in the conventional way. The men selected by the Geneishat included, in addition to Rabbu and his father Hakim, Shei'eb and his three brothers, Hakim's cousin Samsoun and his four brothers and Hakim's uncle Sheikh Qudura and his sons. The date of the oath was set for June tenth. Two days before, the two parties involved in the dispute invited a number of the important people of other tribal segments in the area to be witnesses to the oath. All involved started to travel to the tomb of [492] [494] Sidi Dnain, some on donkeys, others by bus or train. At six o'clock on [497] the morning of the oath everybody gathered in the courtyard outside the [708] tomb of the saint. The granddaughter of the saint works as a mediator [787] between the spirit of her grandfather and his followers announced that [796] the saint was ready for the oath and everybody went inside preparing for the oath. Before the oath was taken the Geneishat asked Hakim if his son and the fourteen men they had chosen were present and Hakim said they were. Since the Geneishat were from a different tribal segment and lived outside the area, they had no personal knowledge of most of the men who were to take the oath. Knowing the reputation of Hakim they [212] asked the men to present their identification cards to check them against [747] the list they had. At that time Hakim said that some of the men didn't have identification cards because they had not applied for aid from the World Food Program. Then the Geneishat demanded that those without cards should be identified by members of other tribal segments who had come as witnesses. Hakim refused and then admitted that one of the men was absent and that he had put another in place of him. But when the Geneishat learned that the one to be absent was Sheikh Qudura, they insisted that

685 no one else could take his place. They were mainly angry at Hakim's
627 attempt to cheat them and refused Hakim's offer to substitute ten men
695 for Qudura. The temper of the meeting was becoming very tense; then
613 Taieb, who was working very hard to achieve a settlement between the
[578] disputants, took the Geneishat aside and tried to convince them to accept another man instead of Qudura. When he found that to be impossible, he asked them to agree to a postponement of the oath until they saw what prevented Qudura from coming as he had promised. The Geneishat agreed to the postponement because of the absence of one of the men to swear.

[691] According to Awlad Ali Daraieb, if one of the individuals to take the oath fails to show up in the saint's tomb for any reason or if he comes but refuses to take the oath, the whole case for the defense fails, and the judgment is awarded automatically for the plaintiff. In this case the Geneishat were entitled to immediate compensation for their confiscated goods. Nobody knew the reason that led the Geneishat to forfeit their right to immediate compensation and to give Hakim and his son a second chance despite their intense dislike for the latters. Some attribute this to the skill of Taieb and the respect he commands among all tribes. Others believe the Geneishat movement to be a reciprocal act to bait Asabei' as a whole which long ago had one a similar favor for the Geneishat. Still others beliebe it to be a gesture of good will on the part of the Geneishat who needed to retain a good and friendly relationship with the tribal segments on their smuggling route.

No date was set at that time for the oath. The parties as well as
685 the witnesses returned to their houses. Hakim then took Shei'eb and
627 went to visit Qudura to see why he hadn't come to the oath but Qudura
578

refused to see them. Later Hakim had Shei'eb spread the rumor that Qudura had taken a bribe from the Geneishat to refuse to take the oath, and the story of an old dispute between Qudura, on the one hand, and both Hakim and Shei'eb, on the other. This dispute dates back to the time when the Awaqil of the Aggary Amar decided to replace Shei'eb with Hakim as the Aqila of bait Asabei'. Shortly after the decision of the Aggary Awaqil was publicly known, Qudura was very unhappy and refused to recognize it. His reaction was not out of loyalty to Shei'eb whom he thought was a very unfit person for the position, but it stemmed rather, from a deep resentment of Hakim. According to my information, Qudura's position was met with sympathy by the majority of the people outside the Aggary Amar who share with him the belief that Hakim was a dishonest person who could not be trusted as a representative of bait Asabei'. It was at that time that the stories of Hakim's dishonest dealings were being discussed publicly, mainly by Qudura and members of his camp. At that time many believed that Qudura was the best man for the position of Aqila of bait Asabei' and that he was the only qualified member of that bait. He was the oldest able man in the bait, and although he was poor, yet he was known throughout the area for his honesty and sound decision. In fact many people in the area told me that they believe Qudura to be the only honest member of bait Asabei'. Realizing that Qudura was getting all the attention, Hakim sent his son Rabbu to Qudura with a message that Hakim acknowledged Qudura as the Aqila and that he (Hakim) had neither the time nor the interest in taking the position himself. Hakim also conveyed the view that he would support Qudura if the latter denounced Shei'eb and appointed himself in his place. Qudura agreed and a date

613 was set for a meeting in which Quadra was to announce his decision.
156 Meanwhile, Qudura stopped attacking Hakim and directed his attack to-
554 ward the inadequacy of Shei'eb as the Aqila.
578

The meeting was held two weeks later and all the important people in the area were invited. After dinner was served Qudura announced his agreement with Hakim to become the Aqila of bait Asabei' replacing Shei'eb. Everybody expected Hakim to support Qudura in his claim, but instead Hakim directed his comment to Qudura telling him that there had been a misunderstanding on Qudura's part and that all his message to Qudura was to acknowledge the latter as the Aqila for his own camp alone not for bait Asabei' as a whole as Qudura claimed. This announcement was a surprise to everyone in the meeting since this meant recognizing the camp of Qudura as a separate bait, a result which nobody, including Qudura, had ever anticipated. Qudura was very angry and dissolved the meeting immediately. Ever since that incident, the relationship between

578 Qudura and Hakim has been very unfriendly. Almost all of my informants
156 explained Qudura's failure to show up at the oath as a means of revenge
695 against Hakim who had embarrassed him among the people who attended the
685 meeting. Qudura himself had told me later that the reason for his not
[124] coming to the oath was that he was not sure that Rabbu was innocent:

> Rabbu has been known to do these thins (inform the police) and I can't trust him. I cannot take a false oath and endanger myself for someone like Rabbuh. Besides, Hakim never came to me to discuss the oath like he did with all the others who were to swear with them. If he had brought his son and come to me before I would have been able to tell whether they were lying or not, and If not, I would have sworn with a clear conscience and without fear. The oath is something that one does not take lightly. It involves the supernatural.

613 When Qudura refused to see Hakim and Shei'eb, Hakim asked Sheikh
156 Saleh, the Aqila of one of the most powerful baits in the area, to talk
196

613 Other tribal segments outside the Aggary amar supported the position of
619 Qudura, and most took his position to prove their notion about his hon-
578 esty and the fact that despite his poverty, he could not be bribed. They
156 were also pleased with Qudura's trick which demonstrated Hakim's dishonest
613 techniques. Within the Aggary amar, the general sentiment was still with
578 Hakim although his confession of cheating Qudura made it difficult to
156 support him openly. They directed their attack against Qudura who in
their view violated the solidarity of the amar and even of his bait and
showed it as divided and noncohesive. They were also fearful that Qudura's
[685] refusal to pay would cause the amar to pay the Geneishat the full compen-
sation for the action of Rabbuh, a sum which, as one said, would put the
amar in debt for generations to come. The strongest impact of the events
affected bait Asabei'itself and left it one step from complete fission
into three distinct groups. Shei'eb, finding the tide turning against
Hakim, found a chance to assert his claim to the position of the Aqila,
stating openly that he would never forfeit his hereditary right. On the
other hand, finding the popularity of Qudura increasing rapidly, he
started attacking him verbally and even threatened to beat him. He in-
[681] sisted that Qudura and his sons should be excluded from the amar and
given the barawa.

613 The word "barawa" is derived from the Arabic verb "bara" which means to
681 cure one's self of an illness. It also means to sever social ties with
[192] undesirable persons. The term is used among Awlad Ali in a much restrited
sense to refer to the process by which a tribal segment detaches itself
from any responsibility for the actions of a particular member. It is

681 this variation is that committing the adultery within the camp of the
558 husband constitutes a greater humiliation, since it affects his honor
684 among his neighbors. Also, adultery inside the tent of the couple carries with it the possibility of rape, while adultery outside the tent at least implies an element of consent on the part of the wife. The
[583] penalty in the case of adultery is the return by the wife's father of the mahr and all other expenses of the marriage ceremony and the gifts the husband had presented during the engagement period. This is a further indication that the father of the wife is still responsible for her behavior even after she is married. It is in this respect that the crime of adultery differs from theft. In the case of theft, the
[685] thief has to return twice the amount stolen and in the case of repeated offenders, four times the amount stolen. This is in addition to a certain amount of money as kabara. Yet, in the latter case the kabara is not specified and is subject to the proof by the victim that the theft constituted an insult to him. This insult is assumed in the case of adultery, which makes the kabara in the case of adultery part of the punishment--an integral part of the punishment. The kabara is not among
[613] the collective responsibility of the amar and is paid only by the person involved, unless he is totally unable to pay or refuses to pay. In such
426 cases, his closest male kin (his father, son, or brother) pays on his
593 behalf with the understanding that such payment constitutes a debt which
681 should be repaid. The person paying on his behalf in this case can go
684 to his tent and take by force anything of value, such as blankets, utensils, or even sheep and goats, and keep them as pawns until the debt is
558 paid.

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

the different families. A year later the Gottaan brought up the case again, acknowledging the receipt of £50 from the Magai, but protesting that they had still not received anything from the Nefoofa. On an enquiry being held, a representative collection of infuriated members of the Nefoofa family came to court, protesting that Abd el Gelil had already collected their payments, and that if he had not handed over the money, their responsibility at any rate had ended for the moment.

It subsequently transpired, when Abd el Gelil was with difficulty got hold of and brought to court, that he had collected about £50, but claimed this sum as his own personal travelling expenses for collection. Then followed another lawsuit, in which the Nefoofa family sued their self-appointed lawyer for mis-appropriation of tribal funds. The details of this new case, and those of the original suit, were then re-capitulated and muddled up together, to the complete bewilderment of the writer and the entire satisfaction of the Bedouin assessors.

Mention has been made of the extra £100 (£400 instead of £300) usually paid among the Gawabees tribe as the price of a life. It seems, however, as though there are exceptions to this rule; and the following case seems to shew that the payment of "Sanaa" depends on a variety of circumstances.

A family called Sirdani had had a bloodfeud with another family of the Gawabees called Sayed, one of the former having killed one of the latter some fifty years ago. The two families had been living in totally different districts, and for years had not come into contact with each other, and so the feud had been allowed to continue.

In the spring of 1921 a man of the first family, about forty-five years old, called Mirtah el Sirdani, left the Wadi Natrun for the Nile Valley to buy some sheep from the Fellaheen, taking with him his old mother and a small boy, to help him bring them back across the desert to the luscious grazing in the wadi swamps. He arrived at the

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

members of a neutral family with grazing camels, and with their help Mirtah was fetched in to the Wadi unconscious. 682 628

The case was reported to the police, but a few hours after his arrival in the Wadi Mirtah quietly died. The post-mortem examination revealed a skull cracked right across, with severe cerebral haemorrhage. In due course the Sirdani family claimed £400 bloodmoney from the Sayed family, according to the custom among the Gawabees tribe. This time, however, an exception was made. The sheikhs decided that the ordinary bloodmoney of £300 only should be paid by the Sayed to the Sirdani family, £100 in money and £200 in kind, divided into six yearly instalments of £50 each. 672

They also added a rider to the effect that they were not awarding Sanaa under the circumstances, as there was no proof of intent to kill, and that weapons such as guns or knives (which would imply premeditation) were not used. The presumption was that the Sayed family, though obviously intending to cause grievous bodily harm, did not intend to kill Mirtah. The fact that he died of his wounds automatically warranted the award of £300 as bloodmoney, but did not constitute sufficient justification for the imposition of the extra £100 as Sanaa.

In Common Law it is not always easy for the uninitiated to understand the legal value of a threat, or what proportion of the punishment for the completed action is due for a mere threat. It was singularly pleasing, therefore, to find a striking instance of a threat to shoot, and to see the attitude of the Bedouin court towards this particular offence. 671 683

An Arab called Abd el Kerim was tolerably well-to-do, and owned several camels, a mare, fair-sized flocks of sheep and goats, and certain cultivation rights; and he had two sons aged about sixteen and eighteen respectively. His cousin, Abd el Salam, who lived half a mile away, had four sons of ages ranging from fifteen to twenty, but he was considerably poorer in this world's goods. Abd el Kerim's sons took their camels out to graze, and inadvertently 233 685

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

233 wandered over the boundary of Abd el Salam's grazing
• 685 rights. The juvenile members of Abd el Salam's family
[578] came out from their tents in a body, to drive off their intruding second cousins with their camels. An altercation ensued, and the excitement grew; and eventually a pitched battle with sticks and stones began among the lads.

683 One of Abd el Kerim's sons, leaving his brother to hold on for a moment, ran back the half mile to call his father, who returned with him to the scene of the fight carrying his gun. On arrival at the camels, Abd el Salam's sons set on him in a body. Abd el Kerim pointed his gun at one of them and took aim; whereupon one of the other family from behind laid him low with a blow on the top of his head, sufficient to fell an ox.

[114] Abd el Kerim was carried back to his tent, where the writer witnessed the horrible sight of sympathetic but homicidal relatives pawing his open wound with their filthy fingers. A large hole had been knocked in the side of his head, and portions of brain were visible. After some
[694] months of surgical treatment Abd el Kerim came out of hospital; and, as the blow was reported to have affected his reason, a case was brought on his behalf by some of his relatives, claiming damages from the family of Abd el
[682] Salam. However, before the case was fully completed, Abd el Kerim was taken ill, was re-admitted to hospital, and died. The case therefore became one of bloodmoney, and was dealt with in the usual way.

683 The interesting point about the case, however, lies in
682 the decision of the court, when the first claim for damages was brought up. A very strong line was adopted by the
695 sheikhs, and in the opinion of the court the wounds re-
672 ceived by Abd el Kerim were only what he might reasonably expect. They maintained that, after the way in which he had behaved, he was lucky to have got off as lightly as he did. The sheikhs protested that he ought never to have gone out from his tent, and mixed himself up in a fight between a lot of boys. If he had any authority at all, he